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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Peter M. Redford and Donald S. Stern
Assignee: TV Interactive Data Corporation
Title: AN INTERACTIVE BOOK, MAGAZINE AND AUDIO/VIDEO COMPACT DISK BOX
Serial No.: Unknown Filed: Herewithin
Examiner: Unknown Group Art Unit: Unknown
Attorney Docket No.: M-2726-1D US

San Jose, California
May 11, 1995

COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D. C. 20231
Attention: Assistant Commissioner of Patents (MPEP §1002.02 (a))

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT
(37 CFR 1.102 AND MPEP §708.02)

Applicants hereby petition to make this application special because of actual infringement.

1. Accompanying material

Accompanying this petition is

(a) A Declaration of Facts In Support of Petition To Make Special Because of Actual Infringement;

and

(b) Declaration By Attorney In Support of Petition To Make Special Because of Actual Infringement

2. Fee (37 CFR 1.17[i][2])

The fee required is to be paid by charging Deposit Account 19-2386 the sum of \$130.00.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 19-2386.

A duplicate of this petition is attached.

Respectfully submitted,

Daniel E. Skjerven
Daniel E. Skjerven
Attorney for Applicants
Reg. No. 24,423
Skjerven, Morrill, MacPherson,
Franklin & Friel
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Telephone: 408/453-9200

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May 11, 1995
Date of Signature

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San Jose, California
 May 10, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D. C. 20231

**DECLARATION OF FACTS IN SUPPORT OF PETITION TO MAKE SPECIAL
 BECAUSE OF ACTUAL INFRINGEMENT (MPEP §708.02)**

I, Peter M. Redford hereby declare:

1. I am the President and Chief Executive Officer of TV Interactive Corporation, 2150 Trade Zone Boulevard, Suite 201, San Jose, CA 95131, which is the Assignee of the above-identified Application.

2. On or about November 17, 1994 I was informed that a competitor (the "Infringer") of TV Interactive Corporation is introducing into the marketplace a software product (the "Infringing Device") including code that when executed on a personal computer looks for a file of a predetermined name on a compact disk (CD) whenever the CD is inserted in a CD-ROM drive of the personal computer.

3. On information and belief, the Infringing Device includes methods and structures substantially the same as an invention disclosed and claimed in the above-identified Patent Application.

4. On information and belief, the Infringer has supplied at least one version of the Infringing Device to at least one software developer on or about November 1, 1994.

5. On information and belief, the Infringer is currently offering at least one version of the Infringing Device for beta test by software developers.

6. On information and belief, the Infringer loaded and executed the Infringing Device on a personal computer at Consumer Electronics Show held in Las Vegas, Nevada on or about January 6, 1995.

7. On information and belief, the Infringer is currently selling the Infringing Device.

8. On December 13, 1994 I met with my patent attorney, Omkar K. Suryadevara. Mr. Suryadevara and I compared execution of the Infringing Device on a personal computer with the claims now pending in the above-identified Patent Application, including Claims 63 to 76 originally submitted in parent U.S. Patent Application 08/269,492 filed on July 1, 1994, that is the parent of the above-identified application.

9. Mr. Suryadevara informed me that, in his opinion, an actual infringement of at least some of these claims exists when the Infringing Device is executed on a personal computer.

10. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 to Title 18 of the United States Codes, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Peter M. Redford
President and CEO
TV Interactive Corporation

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May 11, 1995
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San Jose, California
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 Washington, D. C. 20231

**DECLARATION BY ATTORNEY IN SUPPORT OF PETITION TO MAKE
 SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (MPEP §708.02)**

I, Omkar K. Suryadevara declare as follows:

1. I am an attorney associated with the firm of Skjerven, Morrill, MacPherson, Franklin & Friel, 25 Metro Drive, Suite 700, San Jose, CA 95110.
2. I am registered to practice before the U.S. Patent office and my registration number is 36,320.
3. I am an attorney for the Applicants in the above-cited Patent Application
4. TV Interactive Data Corporation (the "Assignee") is the assignee of the above-cited Patent Application.
5. On December 13, 1994, Peter M. Redford, an inventor of the above-cited Patent Application and President and Chief Executive Officer of the Assignee, discussed with me a software product (the "Infringing Device"), which includes code that when executed in a personal computer looks for a file of a predetermined name on a compact disc (CD) whenever the CD is inserted into a CD-ROM drive.
6. I have compared information on the Infringing Device with the claims now pending in this Application, including Claims 63 to 76 (originally submitted in parent U.S. Patent Application 08/269,492 filed on July 1, 1994).
7. In my opinion, at least some of the claims pending in the above-cited Patent Application are unquestionably infringed when the Infringing Device is executed on a personal computer.
8. I have reviewed the results of two patent searches of the prior art, using a computerized database "CLAIMS/U.S. Patents" on the Dialog Information Service. A first prior art search was conducted using the following keywords: "auto start", "start CD", "run CD", "disk start", "automatic and start and computer", "start load", "auto CD" and "start disk". The transcripts for the first patent search are attached hereto as Exhibit A. A second patent search was conducted using the keywords: "auto? and start? and comp? and CD?", "automatic? and run? and CD?", "run load", "load run", and "start? and disk? and comp? and play?". The transcripts for the second patent search are attached hereto as Exhibit B. Also attached are

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copies of five references resulting from these searches.

9. To the best of my knowledge, all claims now pending in the above-mentioned Patent Application are allowable over prior art of which I am aware.

10. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: May 11, 1995.

Respectfully submitted,



Omkar K. Suryadevara
Attorney for Applicants
Reg. No. 36,320

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May 11, 1995. 
Date of Signature